

JOEL YANCEY WILSON

IBLA 85-250

Decided July 22, 1986

Appeal from a decision of the Wyoming State Office, Bureau of Land Management, rejecting simultaneous oil and gas lease application. W-85819.

Affirmed.

1. Oil and Gas Leases: Applications: Drawings -- Oil and Gas Leases: Known Geologic Structure -- Oil and Gas Leases: Noncompetitive Leases

BLM must reject a simultaneous oil and gas lease application drawn with priority where the land had been determined to be within a known geologic structure of a producing oil or gas field after the lease drawing but prior to issuance of a lease.

APPEARANCES: Joel Yancey Wilson, pro se.

OPINION BY ADMINISTRATIVE JUDGE FRAZIER

Joel Yancey Wilson has appealed from a decision of the Wyoming State Office, Bureau of Land Management (BLM), dated November 1, 1984, rejecting appellant's simultaneous oil and gas lease application, W-85819, drawn with second priority for parcel WY-509 in the May 1983 simultaneous oil and gas lease drawing.

By memorandum dated October 11, 1984, the District Manager, Rock Springs District Office, Wyoming, informed the State Director, Wyoming, that lease offer W-85819 "had been found to lie entirely within the Salt Wells Known Geologic Structure [(KGS)]," based on two KGS determinations, effective July 12, and October 1, 1984. In its November 1984 decision, BLM rejected appellant's simultaneous oil and gas lease application because the land had been determined to be within a KGS and was only subject to leasing by competitive bidding. Wilson has appealed that BLM decision.

---

1/ In its November 1984 decision, BLM also rejected Patricia J. Galey's non-competitive oil and gas lease offer, which had been drawn with first priority, for the same reason. Galey filed an appeal on Nov. 19, 1984, but subsequently withdrew the appeal on Feb. 4, 1985, because consulting geologists, in reviewing the KGS determinations, had concluded that the specific lands involved herein "may be presumptively productive" and, thus, properly included in the KGS. See 43 CFR 3100-0-5(1). By order dated Feb. 22, 1985, the Board dismissed the appeal as to Patricia J. Galey.

On appeal, appellant argues that his lease application was "made in good faith" and that, at the time of the drawing, parcel WY-509 had not been determined to be within the Salt Wells KGS.

[1] It is well established that a simultaneous oil and gas lease application for lands designated as within a KGS at any time prior to issuance of a lease must be rejected. David R. Wilson, 90 IBLA 7 (1985), and cases cited therein. The Department simply has no authority under section 17 of the Mineral Leasing Act, as amended, 30 U.S.C. § 226 (1982), to issue a noncompetitive lease for lands within a KGS. McDonald v. Clark, 771 F.2d 460 (10th Cir. 1985); McDade v. Morton, 353 F. Supp. 1006 (D.D.C. 1973), aff'd, 494 F.2d 1156 (D.C. Cir. 1974). Accordingly, it is irrelevant that appellant submitted his application to lease in good faith or that the KGS determination was made after the lease drawing. Neva F. Riley, 89 IBLA 216 (1985). We conclude that BLM properly rejected appellant's simultaneous oil and gas lease application. 2/

Therefore, pursuant to the authority delegated to the Board of Land Appeals by the Secretary of the Interior, 43 CFR 4.1, the decision appealed from is affirmed.

Gail M. Frazier  
Administrative Judge

We concur:

Anita Vogt  
Administrative Judge  
Alternate Member

James L. Burski  
Administrative Judge

---

2/ Appellant has not challenged the KGS determinations. We note that the District Manager, Rock Springs District Office, has included in the record geologic and other data supporting those determinations. We can find no basis for concluding that the KGS determinations were improperly made.

